

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 286 (Sub-No. 7X)

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION—
ABANDONMENT EXEMPTION—PASSAIC AND MORRIS COUNTIES, N.J.

Decided: February 3, 2014

This decision reopens the proceeding to remove the previously imposed Section 106 historic preservation condition.

The New York, Susquehanna and Western Railway Corporation (NYS&W) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a segment of its line of railroad, known as the Pompton Industrial, between milepost 22.1 in Wayne Township, Passaic County, N.J., and milepost 26.3 in Pompton Plains Township, Morris County, N.J. Notice of the exemption was served and published in the Federal Register on November 8, 2013 (78 Fed. Reg. 67,216). The exemption was scheduled to become effective on December 11, 2013.

By decision served on December 10, 2013, the Board imposed two environmental conditions recommended by the Board's Office of Environmental Analysis (OEA) in an Environmental Assessment served on November 15, 2013. One of the conditions, a historic preservation condition, required NYS&W to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the right-of-way that are eligible for listing or are listed in the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f) (NHPA). That condition also required NYS&W to report back to OEA regarding any consultations with the New Jersey Historical Society (SHPO) and the public and prohibited NYS&W from filing its consummation notice or initiating any salvage activities related to the proposed abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition. In this decision, the Board is removing the historic preservation condition.¹

In a memorandum dated January 15, 2014, OEA states that the SHPO has provided the opinion that the proposed abandonment will have no adverse effect to historic properties pursuant to Section 106 of the NHPA. OEA concurs with this assessment. Accordingly, OEA recommends that the Section 106 condition be removed.

¹ The other condition, which is salvage-related, remains in effect but it is not a barrier to consummation.

Based on OEA's recommendation, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the December 10, 2013 decision is removed.
3. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.